

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 314 of 1991

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 - No.

ANILKUMAR CHIMANLAL AMIN

Versus

STATE OF GUJARAT

Appearance:

MR PK PANCHOLI for Petitioners

MR.K>C>SHAH,ADDL. PUBLIC PROSECUTOR for Respondent No. 1

SERVED for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/01/97

ORAL JUDGEMENT

This petition arises of an order of the learned Metropolitan Magistrate, Ahmedabad, rejecting the application made by the present petitioners to remove Muddamal in Criminal Case No.347 of 1987 from the premises belonging to the petitioners.

The petitioners are the owners of the constructed property situated in the Maninagar area of the city which was let to one Kamal Kacharu. The above-referred criminal case has been registered against the said Kamal Kacharu for certain illegal activities carried on by him

in the premises belonging to the petitioners. In course of raid carried out by the police, some muddamal was recovered from the said Kamal Kacharu which with the consent of the father of the petitioners was stored in the same premises. Later on on an application made by the father of the petitioners the said Muddamal was shifted from the ground-floor of the premises to the first floor. The petitioners thereafter made an application to the learned Magistrate to direct removal of the said Muddamal from the premises belonging to the petitioners. The application has been rejected by the learned Metropolitan Magistrate under his order dated 16-1-91. Feeling aggrieved, the petitioners have preferred this petition. Be it noted that the petitioners are not involved in the said offence in any manner. The muddamal is required to be kept in safe custody pending trial under the orders of the trial court. However, I do not see any justification that the Muddamal should be stored in the property belonging to the petitioners as has been done in the present case. In the circumstances, the impugned order of the learned Metropolitan Magistrate made on application exh.4 on 16-1-1991 is quashed and set aside. The matter is remanded to the learned Metropolitan Magistrate, to make suitable orders for removal of the said Muddamal from the belonging to the present petitioners to a suitable place. The above-referred application Exh.4 may be decided as expeditiously as possible preferably within eight weeks from today. Petition is allowed.

Rule is made absolute accordingly.
